

### **REMARKS**

Claims 17-26, 28-34 and 36-51 are now pending in the application. Claims 1-16, 27 and 35 were previously cancelled. Claims 26 and 28-32 were previously withdrawn. The Examiner previously indicated that upon allowance of the linking claims (Claims 22-25 and 48-49), the restriction requirement as to the linked inventions would be withdrawn and Claims 26 and 28-32 entitled to examination. Thus, the claims status for Claims 26 and 28-32 now reflects that these claims are pending and under consideration.

Applicants are submitting herewith a supplemental information disclosure statement pursuant to 37 CFR §1.97(c)(2) with the appropriate fee under 37 CFR §1.17(p) with two references attached. Both of these references were published after the priority date of the present application (after the filing of the parent application U.S.S.N. 10/603,474 filed on June 25, 2003 and issued as U.S.P.N. 6,967,012 on November 22, 2005). Applicants do not believe that either cited reference constitutes prior art to the presently claimed invention, nonetheless Applicants are submitting them herewith for consideration by the Examiner.

Minor amendments have been made to Claims 26, 40-45, and 50. The amendments to the claims contained herein address mere informalities as to form and are of equivalent scope as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 112**

Claims 26, 28-32, 40-45, 50 and 51 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

Claims 26, 40-45, and 50 are amended in conformance with the Examiner's suggestion to amend the claims to replace the above limitation of "at least one of" and to recite the more traditional Markush terminology of "at least one member selected from the group consisting of". The CCPA has held that the mere use of a non-Markush alternative expression in a claim is not indefinite, so long as the term accurately determines the boundaries of protection involved. *In re Gaubert*, 187 USPQ 664, 667-668 (CCPA 1975); *See also Ex parte Head*, 214 USPQ 551, 553 (BPAI 1981). Further, Applicants note that MPEP 2173.01 permits Applicants to use "any style or format of claim which makes clear the boundaries of the subject matter for which protection is sought."

Applicants respectfully submit that original claims reasonably and unambiguously convey the meaning of what is claimed and are therefore definite under §112, Second Paragraph. However in the spirit of furthering prosecution, Applicants have amended the rejected claims, but view these amendments to address a mere informality and as such, these amendments should not be construed as narrowing amendments. Accordingly, Applicants respectfully request reconsideration of the claims and submit that the claims are in condition for allowance.

### **REJECTION UNDER DOUBLE PATENTING**

Claims 17-26, 28-34 and 36-51 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/649,923. A Terminal Disclaimer in compliance with 37 CFR 1.321(c) is attached and Applicants respectfully submit that the Terminal Disclaimer brings Claims 17-26, 28-34 and 36-51 into patentable condition. However, this terminal disclaimer should not be construed as an admission that the present claims are obvious in view of U.S. Application Serial No. 10/649,923. Accordingly, in light of the Terminal Disclaimer, Applicants respectfully request that the rejections be withdrawn.

### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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HARNESS, DICKY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303

CORRESPONDENCE ADDRESS:  
Kathryn A. Marra  
General Motors Corporation  
Legal Staff - Mail Code 482-C23-B21  
PO Box 300 - 300 Renaissance Center  
Detroit, Michigan 48265-3000  
Ph: 313-665-4708  
Fax: 313-665-4976

JMW/slg

By: Jennifer M. Woodside Wojtala

Anna M. Budde  
Reg. No. 35,085

Jennifer M. Woodside Wojtala  
Reg. No. 50,721